

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
Plaintiff-Appellee.

v.

DENNIS E. FORT,  
Claimant-Appellant.

and

TRACT 1 CUMBERLAND COUNTY LAND,  
1300 Turnpike Road, Cross Creek  
Township, Fayetteville, NC, deed  
recorded at Book 2998, Page 77 of  
the Cumberland County Registry,  
being titled in the names of William  
H. Lawrence and wife, Rosemary C.  
Lawrence, with buildings,

No. 97-2446

appurtenances and improvements  
thereto, and any and all proceeds  
from the sale of said property;  
TRACT 2 CUMBERLAND COUNTY LAND,  
1305 Turnpike Road, Fayetteville,  
NC, deed recorded at Book 3423,  
Page 0385 of the Cumberland  
County Registry, being titled in the  
name of Dennis E. Fort, with  
buildings, appurtenances, and  
improvements thereto, and any and  
all proceeds from the sale of said  
property; TRACT 3 CUMBERLAND  
COUNTY LAND, 1517 Pierce Street,  
Cross Creek Township, City of  
Fayetteville, NC, deed recorded at

Book 3750, Page 667 of the  
Cumberland County Registry, being  
titled in the name of James Fort,  
with buildings, appurtenances, and  
improvements thereto, and any and  
all proceeds from the sale of said  
property; TRACT 4 CUMBERLAND  
COUNTY LAND, 1519 Pierce Street,  
Cross Creek Township, City of  
Fayetteville, NC, deed recorded at  
Book 3600, Page 0893 and Book  
3750, Page 667 of the Cumberland  
County Registry, being titled in the  
name of James Fort, with buildings,  
appurtenances, and improvements  
thereto, and any and all proceeds  
from the sale of said property;  
TRACT 5 CUMBERLAND COUNTY LAND,  
1208 Turnpike Road, Cross Creek  
Township, Fayetteville, NC deed  
recorded at Book 3561, Page 0506  
and Book 3750, Page 667 of the  
Cumberland County Registry, being  
titled in the name of James Fort,  
with buildings, appurtenances, and  
improvements thereto, and any and  
all proceeds from the sale of said  
property; TRACT 6 CUMBERLAND  
COUNTY LAND, 1214 Morgan Street,  
Cross Creek Township, Fayetteville,  
NC, deed recorded at Book 3576,  
Page 0732 and Book 3750, Page  
667 of the Cumberland County  
Registry, being titled in the name of

James Fort, with buildings,  
appurtenances, and improvements  
thereto, and any and all proceeds  
from the sale of said property;  
TRACT 7 CUMBERLAND COUNTY LAND,  
1002 Ellis Street, Fayetteville, NC,  
deed recorded at Book 3695, Page  
0473 and Book 3750, Page 667 of  
the Cumberland County Registry,  
being titled in the name of James  
Fort, with buildings, appurtenances  
and improvements thereto, and any  
and all proceeds from the sale of  
said property; TRACT 8 CUMBERLAND  
COUNTY LAND, 112 Chase Street,  
Cross Creek Township, Fayetteville,  
NC, deed recorded at Book 3633,  
Page 0482 and Book 3750, Page  
667 of the Cumberland County  
Registry, being titled in the name of  
James Fort, with buildings,  
appurtenances and improvements  
thereto, and any and all proceeds  
from the sale of said property;  
TRACT 9 CUMBERLAND COUNTY LAND,  
116 Chase Street, Cross Creek  
Township, Fayetteville, NC, deed  
recorded at Book 3633, Page 0482  
and Book 3750, Page 667 of the  
Cumberland County Registry, being  
titled in the name of James Fort,  
with buildings, appurtenances and  
improvements thereto, and any and  
all proceeds from the sale of said  
property; TRACT 10 CUMBERLAND

COUNTY LAND, Route 1, Box 223B,  
Blake Street, Stedman, NC, deed  
recorded at Book 768, Page 288 of  
the Cumberland County Registry,  
being titled in the name of Mae  
Francis Fort and listed in the tax  
records as belonging to James  
Edward Fort, with buildings,  
appurtenances and improvements  
thereto, and any and all proceeds  
from the sale of said property;  
TRACT 11 CUMBERLAND COUNTY  
LAND, 490 Warm Springs Drive,  
Fayetteville, NC, deed recorded at  
Book 3624, Page 0423 and Book  
3750, page 667 of the Cumberland  
County Registry, being titled in the  
name of James Fort, with buildings,  
appurtenances and improvements  
thereto, and any and all proceeds  
from the sale of said property;  
TRACT 12 CUMBERLAND COUNTY  
LAND, 1202 Morgan Street, Cross  
Creek Township, Fayetteville, NC,  
deed recorded at Book 3781, Page  
0242 of the Cumberland County  
Registry, being titled in the name of  
James Edward Fort, with buildings,  
appurtenances and improvements  
thereto, and any and all proceeds  
from the sale of said property;  
TRACT 13 CUMBERLAND COUNTY  
LAND, 1208-A Morgan Street, Cross  
Creek Township, Fayetteville, NC,  
deed recorded at Book 3612, Page  
0683 and Book 3750, Page 667

of the Cumberland County Registry,  
being titled in the name of James  
Fort, with buildings, appurtenances  
and improvements thereto, and any  
and all proceeds from the sale of  
said property,  
Defendants.

and

No. 97-2446

JAMES EDWARD FORT; JENNIFER ROBIN  
GRAHAM; ROSEMARY C. LAWRENCE;  
CUMBERLAND COUNTY; THE CITY OF  
FAYETTEVILLE; TILLMAN V. JACKSON;  
LAVEDA M. JACKSON; MARY MONROE  
DEPRATER,  
Claimants.

Appeal from the United States District Court  
for the Eastern District of North Carolina, at Fayetteville.  
W. Earl Britt, Senior District Judge.  
(CA-92-57-3-BR)

Submitted: July 28, 1998

Decided: October 8, 1998

Before WIDENER, WILKINS, and LUTTIG, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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#### **COUNSEL**

Dennis E. Fort, Appellant Pro Se. G. Norman Acker, III, OFFICE OF  
THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for  
Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

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## OPINION

### PER CURIAM:

Dennis Edward Fort appeals from the district court's order denying his "Motion to Set Aside Judgement [sic] and for the Return of Property or Just Compensation." We affirm.

Fort first asserts that he did not receive notice that real property belonging to him was subject to forfeiture under 21 U.S.C. § 881(a)(7) (1994), thus explaining his failure to file a claim. Our review reveals that this claim is flatly contradicted by Fort's allegations, made under penalty of perjury, in prior pleadings. Next, Fort asserts that he was entitled to additional notice when the forfeiture advanced from an administrative to a judicial proceeding. This claim is entirely without merit. The forfeiture at issue involved the loss of real property and it therefore commenced in the district court as a judicial proceeding.

Finally, Fort claims that he was entitled to pre-seizure notice and hearing. The Supreme Court in United States v. James Daniel Good Real Property, 510 U.S. 43 (1993), established that in civil forfeiture proceedings, absent exigent circumstances, Fifth Amendment due process concerns require the government to provide both pre-seizure notice and a meaningful opportunity to be heard. Good, however, issued after the forfeiture in this case became final, and we conclude that its protections are not retroactively applicable on these facts. See United States v. Marsh, 105 F.3d 927, 931 (4th Cir. 1997).

Accordingly, we affirm the district court's denial of Fort's motion. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

### AFFIRMED